

Internal Revenue Service, Treasury

§ 1.170A-6

this paragraph; upon termination of such interest the residue of the trust is to revert to B.

(b) By reference to Table F in §1.664-4(b)(5), the adjusted payout rate is 4.717 percent (5 percent \times 0.943396). The present value of the reversion is \$6,473.75, computed by reference to Table D in §1.664-4A(c), as follows:

| | |
|---|------------|
| Factor at 4.6 percent for 9 years | 0.654539 |
| Factor at 4.8 percent for 9 years | .642292 |
| Difference | .012247 |
| Interpolation adjustment: | |
| $4.717\% - 4.6\% / 0.2\% = \times / 0.012247$ | |
| $\times = 0.007164$ | |
| Factor at 4.6 percent for 9 years | .654539 |
| Less: Interpolation adjustment | .007164 |
| Interpolated factor | .647375 |
| Present value of reversion (\$10,000 \times 0.647375) ... | \$6,473.75 |

(c) The present value of the income interest and B's charitable contribution for 1970 is \$3,526.25 (\$10,000 - \$6,473.75).

Example 3. (a) On January 1, 1970, C contributes to a church in trust a 9-year irrev-

ocable income interest in property. Both C and the trust report income on a calendar year basis. The fair market value of the property placed in trust is \$10,000. The trust instrument provides that the church will receive an annuity of \$500, payable annually at the end of each year for 9 years. The income interest is a guaranteed annuity interest as defined in subparagraph (2)(i) of this paragraph; upon termination of such interest the residue of the trust is to revert to C. C's charitable contribution for 1970 is \$3,400.85, determined as provided in *Example (1)*. The trust earns income of \$600 in 1970, \$400 in 1971, and \$500 in 1972, all of which is taxable to C under section 671. The church is paid \$500 at the end of 1970, 1971, and 1972, respectively. On December 31, 1972, C dies and ceases to be treated as the owner of the income interest under section 673.

(b) Pursuant to subparagraph (4) of this paragraph, the discounted value as of January 1, 1970, of the amounts paid to the church by the trust is \$1,336.51, determined by reference to column (4) of §20.2031-7A(c) of this chapter, as follows:

| Annuity | Amount paid | Years from Jan. 1, 1970, to payment date | Discount factor | Discount value as of Jan. 1, 1970 |
|------------------------------|-------------|--|-----------------|-----------------------------------|
| Payment date | | | | |
| Dec. 31, 1970 | \$500 | 1 | 0.943396 | \$471.70 |
| Dec. 31, 1971 | 500 | 2 | .889996 | 445.00 |
| Dec. 31, 1972 | 500 | 3 | .839619 | 419.81 |
| Total discounted value | | | | 1,336.51 |

(c) Pursuant to subparagraph (4) of this paragraph, there must be included in C's gross income for 1972 the amount of \$2,064.34 (\$3,400.85 less \$1,336.51).

(d) For deduction by the trust for amounts paid to the church after December 31, 1972, see section 642(c)(1) and the regulations thereunder.

(d) *Denial of deduction for certain contributions by a trust.* (1) If by reason of section 170(f)(2)(B) and paragraph (c) of this section a charitable contributions deduction is allowed under section 170 for the fair market value of an income interest transferred in trust, neither the grantor of the income interest, the trust, nor any other person shall be allowed a deduction under section 170 or any other section for the amount of any charitable contribution made by the trust with respect to, or in fulfillment of, such income interest.

(2) Section 170(f)(2)(C) and subparagraph (1) of this paragraph shall not be construed, however, to:

(i) Disallow a deduction to the trust, pursuant to section 642(c)(1) and the regulations thereunder, for amounts paid by the trust after the grantor ceases to be treated as the owner of the income interest for purposes of applying section 671 and which are not taken into account in determining the amount of recapture under paragraph (c)(4) of this section, or

(ii) Disallow a deduction to the grantor under section 671 and §1.671-2(c) for a charitable contribution made by the trust in excess of the contribution required to be made by the trust under the terms of the trust instrument with respect to, or in fulfillment of, the income interest.

(3) Although a deduction for the fair market value of an income interest in property which is less than the donor's entire interest in the property and which the donor transfers in trust is disallowed under section 170 because

such interest is not a guaranteed annuity interest, or a unitrust interest, as defined in paragraph (c)(2) of this section, the donor may be entitled to a deduction under section 671 and § 1.671-2(c) for any charitable contributions made by the trust if he is treated as the owner of such interest for purposes of applying section 671.

(e) *Effective date.* This section applies only to transfers in trust made after July 31, 1969.

(83 Stat. 544, 26 U.S.C. 170(f)(4); 83 Stat. 560, 26 U.S.C. 642(c)(5); 68A Stat. 917, 26 U.S.C. 7805) [T.D. 7207, 37 FR 20780, Oct. 5, 1972; 37 FR 22982, Oct. 27, 1972, as amended by T.D. 7340, 40 FR 1238, Jan. 7, 1975; T.D. 7955, 49 FR 19975, May 11, 1984; T.D. 8540, 59 FR 30102, June 10, 1994]

§ 1.170A-7 Contributions not in trust of partial interests in property.

(a) *In general.* (1) In the case of a charitable contribution, not made by a transfer in trust, of any interest in property which consists of less than the donor's entire interest in such property, no deduction is allowed under section 170 for the value of such interest unless the interest is an interest described in paragraph (b) of this section. See section 170(f)(3)(A). For purposes of this section, a contribution of the right to use property which the donor owns, for example, a rent-free lease, shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(2)(i) A deduction is allowed without regard to this section for a contribution of a partial interest in property if such interest is the taxpayer's entire interest in the property, such as an income interest or a remainder interest. Thus, if securities are given to A for life, with the remainder over to B, and B makes a charitable contribution of his remainder interest to an organization described in section 170(c), a deduction is allowed under section 170 for the present value of B's remainder interest in the securities. If, however, the property in which such partial interest exists was divided in order to create such interest and thus avoid section 170(f)(3)(A), the deduction will not be allowed. Thus, for example, assume that a taxpayer desires to contribute to a charitable organization an income

interest in property held by him, which is not of a type described in paragraph (b)(2) of this section. If the taxpayer transfers the remainder interest in such property to his son and immediately thereafter contributes the income interest to a charitable organization, no deduction shall be allowed under section 170 for the contribution of the taxpayer's entire interest consisting of the retained income interest. In further illustration, assume that a taxpayer desires to contribute to a charitable organization the reversionary interest in certain stocks and bonds held by him, which is not of a type described in paragraph (b)(2) of this section. If the taxpayer grants a life estate in such property to his son and immediately thereafter contributes the reversionary interest to a charitable organization, no deduction will be allowed under section 170 for the contribution of the taxpayer's entire interest consisting of the reversionary interest.

(ii) A deduction is allowed without regard to this section for a contribution of a partial interest in property if such contribution constitutes part of a charitable contribution not in trust in which all interests of the taxpayer in the property are given to a charitable organization described in section 170(c). Thus, if on March 1, 1971, an income interest in property is given not in trust to a church and the remainder interest in the property is given not in trust to an educational organization described in section 170(b)(1)(A), a deduction is allowed for the value of such property.

(3) A deduction shall not be disallowed under section 170(f)(3)(A) and this section merely because the interest which passes to, or is vested in, the charity may be defeated by the performance of some act or the happening of some event, if on the date of the gift it appears that the possibility that such act or event will occur is so remote as to be negligible. See paragraph (e) of § 1.170A-1.

(b) *Contributions of certain partial interests in property for which a deduction is allowed.* A deduction is allowed under section 170 for a contribution not in trust of a partial interest which is less than the donor's entire interest in